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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,766	12/30/1999	BRYAN J. MOLES	SAMS01-00098	6831

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EXAMINER

NALVEN, ANDREW L .

ART UNIT PAPER NUMBER

2134

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

*Rh*

## Office Action Summary

Application No.

09/475,766

Applicant(s)

MOLES ET AL.

Examiner

Andrew L Nalven

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-20 are pending.
2. Amendment submitted 2/17/04 has been entered and considered.

### ***Response to Arguments***

3. Applicant's arguments filed 2/17/04 have been fully considered but they are not persuasive.
4. Applicant has argued on page 10 that the Hsu reference and Nordman reference fail to teach the limitation "encrypting at least a portion of said IP packet payload to thereby generate an encrypted payload that may be decrypted only by a provisioning server of the wireless network" as defined in amended claims 1, 9, and 17. Examiner contends that Hsu does teach the encrypting of at least a portion of said IP packet payload to thereby generate an encrypted payload that may be decrypted only by a provisioning server of the wireless network (Hsu, column 15 lines 1-40). Hsu shows the encrypting of a packet (Hsu, column 15 lines 35-38) that may only be decrypted by the provisioning server (Hsu, column 15 lines 38-40).
5. Applicant's arguments regarding the Nordman reference are moot in view of the new grounds of rejection.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-6, 8-14, and 16-19 are rejected under 35 U.S.C. 102(e) as being unpatentable over Hsu et al US Patent No. 6,587,684. Hsu teaches a system for downloading updates to a digital phone using wireless data link protocols.

8. With regards to claims 1, 8-9, and 16, Hsu discloses a first controller (Hsu, column 14, lines 65-67) receiving an IP data packet comprising a header and payload (Hsu, column 6, lines 22-25 and column 15, lines 1-9, Figure 4B) from an unprovisioned mobile station (Hsu, column 14, lines 19-21), determining that a station is unprovisioned (Hsu, column 14 lines 19-32), and encrypting of at least a portion of said IP packet payload to thereby generate an encrypted payload that may be decrypted only by a provisioning server of the wireless network (Hsu, column 15 lines 32-40).

9. With regards to claims 2 and 10, Hsu teaches a first controller disposed in a base station (Hsu, column 6, lines 25-30).

10. With regards to claims 3 and 11, Hsu teaches a first controller disposed in a mobile switching center (Hsu, column 6, lines 25-30).

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11. With regards to claims 4, 12, and 17, Hsu teaches a second controller capable of determining that a mobile station is unprovisioned (Hsu, column 15, lines 13-27).

12. With regards to claims 5, 13 and 18, Hsu teaches a second controller determining that a mobile station is unprovisioned if it is unable to authenticate to the wireless network (Hsu, column 15, lines 13-27).

13. With regards to claims 6, 14, and 19, Hsu teaches a second controller determining a mobile station is unprovisioned according to a predetermined telephone number associated with the provisioning process (Hsu, column 14, lines 19-27).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 7, 15, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu et al US Patent No. 6,587,684 in view of Houde US Patent No. 6,032,043.

Hsu, as described above, lacks a reference to a second controller determining that a mobile station is unprovisioned through data associated with a home location register. Houde teaches that the home location register can be queried for information regarding authorized features on a mobile handset (Houde, column 4, lines 38-61). At the time the invention was made, it would have been obvious to a person of ordinary skill in the

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art to utilize Houde's method of using home location register information because it offers the advantage of allowing the activation, deactivation, and execution of service features at command of the user (Houde, column 1, lines 33-47).

### **Conclusion**

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. Any inquiry regarding this communication from the examiner should be directed to Andrew Nalven at (703) 305-8407 during the hours of 7:15 AM – 4:45 PM Monday through Thursday. The examiner can also be reached on alternate Fridays.

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In the event that attempts to reach the examiner are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (703) 308 – 4789.

**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Or faxed to:**

(703) 872-9306 (for formal communications intended for entry)

**Or:**

(703) 872-9306 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA 22202, Fourth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Andrew Nalven

AN

*Matthew D. Smithers*  
MATTHEW SMITHERS  
PRIMARY EXAMINER  
*Art Unit 2137*